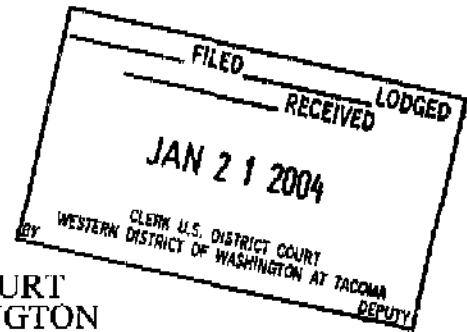


Judge Franklin Burgess



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

KRISTEN KLEIN,

Defendant.

NO. CR03-343FDB

PLEA AGREEMENT

The United States of America, by and through John McKay, United States Attorney for the Western District of Washington, and Kathryn A. Warma, Assistant United States Attorney for said District, and the defendant, KRISTEN KLEIN, and her attorney, James Vonasch, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure 11(c):

1. The Charge. Defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and enter a plea of guilty to the following charge contained in the Second Superseding Indictment. By entering this plea of guilty, Defendant hereby waives all objections to the form of the charging document.

a. Wire fraud, as charged in Count 7, in violation of Title 18, United States Code, Section 1343.



03-CR-00343-PET

PLEA AGREEMENT/KLEIN, KIRSTEN - 1
CR03-343FDB

UNITED STATES ATTORNEY
601 UNION STREET, SUITE 3100
SEATTLE, WASHINGTON 98101-3903
(206) 553-7970

1 Defendant further understands that before entering her plea of guilty, Defendant
2 will be placed under oath. Any statement given by Defendant under oath may be used by
3 the government in a prosecution for perjury or false statement.
4

5 2. Elements of the Offense. The elements of the offense of Wire Fraud, as
6 charged in Count 7, in violation of Title 18, United States Code, Section 1343, are as
7 follows:

8 First, Defendant knowingly and willfully devised a scheme to defraud, and
9 to obtain money belonging to others by making false promises or statements;

10 Second, Defendant knew that the promises or statements were false;

11 Third, the promises or statements were material (i.e., would reasonably
12 influence a person to part with money or property);

13 Fourth, Defendant acted with intent to defraud; and

14 Fifth, Defendant transmitted, or caused to be transmitted, by means of a wire
15 communication in interstate or foreign commerce, any writing, sign, signals, picture or
16 sound for the purpose of executing the scheme to defraud.
17

18 3. The Penalties. Defendant understands that the statutory penalties for the
19 offense to which she is entering a plea of guilty are as follows:

20 a. imprisonment for up to twenty (20) years;

21 b. a fine of up to two hundred fifty thousand dollars (\$250,000.00);

22 c. a period of supervision following release from prison of up to three
23 (3) years; and

24 d. a one hundred dollar (\$100.00) penalty assessment, which assessment

25 Defendant agrees shall be paid at or before the time of sentencing.

26 Defendant understands that in addition to any term of imprisonment and/or
27 fine that is imposed, the Court may order Defendant to pay restitution to any victim of the
28 offense, as required by law.

1 Defendant agrees that any monetary penalty the Court imposes, including the
2 special assessment, fine, costs or restitution, is due and payable immediately, and further
3 agrees to submit a completed Financial Statement of Debtor form as requested by the
4 United States Attorney's Office.

5 Defendant understands that supervised release is a period of time following
6 imprisonment during which she will be subject to certain restrictions and requirements.
7 Defendant further understands that if supervised release is imposed and she violates one or
8 more of its conditions, she could be returned to prison for all or part of the term of
9 supervised release that was originally imposed. This could result in Defendant serving a
10 total term of imprisonment greater than the statutory maximum stated above.

11
12 4. Rights Waived by Pleading Guilty. Defendant understands that, by pleading
13 guilty, she knowingly and voluntarily waives the following rights:

- 14 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 15 b. The right to a speedy and public trial before a jury of Defendant's
16 peers;
- 17 c. The right to the effective assistance of counsel at trial, including, if
18 Defendant could not afford an attorney, the right to have the Court appoint one for
19 Defendant;
- 20 d. The right to be presumed innocent until guilt has been established at
21 trial, beyond a reasonable doubt;
- 22 e. The right at trial to confront and cross-examine witnesses against
23 Defendant;
- 24 f. The right at trial to compel or subpoena witnesses to appear on
25 Defendant's behalf;
- 26 g. The right to testify or to remain silent at trial, at which trial such
27 silence could not be used against Defendant; and
- 28 h. The right to appeal a finding of guilt or any pretrial rulings.

1 5. Applicability of Sentencing Guidelines. Defendant understands and
2 acknowledges the following:

3 a. The United States Sentencing Guidelines, promulgated by the
4 United States Sentencing Commission, are applicable to this case;

5 b. The Court will determine Defendant's applicable Sentencing
6 Guidelines range at the time of sentencing;

7 c. The Court may impose any sentence authorized by law, including a
8 sentence that, under some circumstances, departs from any applicable Sentencing
9 Guidelines range up to the maximum term authorized by law;

10 d. The Court is not bound by any recommendation regarding the
11 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines
12 range offered by the parties, or by the United States Probation Department; and

13 e. Defendant may not withdraw a guilty plea solely because of the
14 sentence imposed by the Court.

15
16 6. Ultimate Sentence. Defendant acknowledges that no one has promised or
17 guaranteed what sentence the Court will impose.

18
19 7. Statement of Facts. The parties agree on the following facts in support of
20 Defendant's guilty plea and for purposes of calculating the offense level of the Sentencing
21 Guidelines. Defendant admits she is guilty of the charged offense.

22 a. In May, 2002, ERIK DERI and TANYA DERI established a
23 household goods moving company that operated from offices in the Western District of
24 Washington (Kirkland and Woodinville, Washington). The moving company established
25 by ERIK DERI and TANYA DERI originally was named "NATIONWIDE MOVING
26 SYSTEMS, LLC," ("NATIONWIDE"), although the name of the company subsequently
27 was changed first to "Northstar Moving & Storage," and later to "American Star Moving
28 & Storage". Beginning in May of 2002, and continuing thereafter until July 15, 2003,

1 | NATIONWIDE, its officers and employees engaged in the interstate (and intrastate)
2 | transportation of household goods ("goods"), affecting interstate commerce.

3 | b. Prior to their move in 2002 to Washington State, ERIK DERI and
4 | TANYA DERI lived in Arizona, where they were friends and associates of MICHAEL
5 | AIRGOOD (KLEIN's common law husband). ERIK DERI and MICHAEL AIRGOOD
6 | worked together, prior to May of 2002, for a household goods moving company based in
7 | Arizona. MICHAEL AIRGOOD moved from Arizona to Washington with ERIK DERI
8 | and TANYA DERI in about April of 2002 to work for the new moving company -
9 | NATIONWIDE MOVING SYSTEMS, LLC - that ERIK DERI and TANYA DERI were
10 | establishing in the Western District of Washington in 2002.

11 | c. KRISTEN KLEIN moved to the Western District of Washington in
12 | July of 2002. No later than November 1, 2002, KRISTEN KLEIN began working for
13 | NATIONWIDE, as a receptionist and "estimator." KRISTEN KLEIN performed her
14 | duties as a receptionist and estimator under the supervision, direction and control of the
15 | owners, supervisors, and managers of NATIONWIDE, including ERIK DERI, TANYA
16 | DERI, JOE NAHAM, and (during 2003) YUVAL DERI.

17 | d. KRISTEN KLEIN's duties as a receptionist and estimator included
18 | answering telephone calls and internet communications to and with NATIONWIDE. As
19 | an "estimator," in particular, KRISTEN KLEIN was responsible for providing an
20 | estimated price, to potential customers, of having their household goods moved by
21 | NATIONWIDE. KRISTEN KLEIN was instructed by her supervisors at NATIONWIDE
22 | in the methods she should use to calculate those estimates, using a computer software
23 | program and information provided by the potential customers regarding an inventory of
24 | their household goods. KRISTEN KLEIN was instructed and directed by her supervisors
25 | at NATIONWIDE to provide estimated prices to potential customers that were
26 | intentionally and inaccurately low, in order to lure customers into doing business with
27 | NATIONWIDE. KRISTEN KLEIN communicated the inaccurately low estimates to
28 | potential NATIONWIDE customers with the knowledge that NATIONWIDE, its owners

1 and managers including ERIK DERI, TANYA DERI, JOE NAHAM and YUVAL DEREI,
2 would demand a fraudulently inflated price and would not honor the estimates provided by
3 NATIONWIDE if the company was hired by the potential customers to conduct their
4 move.

5 e. KRISTEN KLEIN communicated the inaccurately low and fraudulent
6 estimates to potential customers by means of wire communications in interstate commerce,
7 including telephone and internet e-mail communications.

8 f. On or about January 1, 2003, KRISTEN KLEIN, who was then present
9 in Woodinville, in the Western District of Washington, transmitted by telephone to B.C., a
10 potential customer of NATIONWIDE who was then located in Oregon, an estimate in the
11 amount of \$1,300.00 for conducting an interstate move, by NATIONWIDE, of B.C.'s
12 household goods. KRISTEN KLEIN communicated that inaccurate and fraudulent low
13 estimate to B.C. with the intention to defraud this potential customer and obtain thereby
14 money or property by making false statements, and with the knowledge that
15 NATIONWIDE would not honor the estimate and would demand a fraudulently inflated
16 price if the company was hired by B.C. to conduct her interstate move.

17
18 8. Loss Amount. The United States and Defendant agree that the correct
19 amount of the loss with respect to Defendant KRISTEN KLEIN is between two hundred
20 thousand dollars (\$200,000.00) and four hundred thousand dollars (\$400,000.00) for
21 purposes of USSG § 2B1.1(b)(1).

22
23 9. Restitution. Defendant shall make restitution to the victims and in the
24 amount ordered by the Court after hearing arguments. Said amount shall be due and
25 payable immediately and shall be paid in accordance with a schedule of payments as
26 ordered by the Court.

1 10. Agreed Guideline Adjustment. The parties agree and stipulate that the
2 evidence supports an adjustment to Defendant's base offense level under the Sentencing
3 Guidelines, as follows: a two- (2-) level downward adjustment based upon Defendant's
4 role in the offense; i.e., because Defendant was a minor participant in the criminal activity,
5 pursuant to USSG § 3B1.2.

6
7 11. Non-Prosecution of Additional Offenses. As part of this Plea Agreement,
8 the United States Attorney's Office for the Western District of Washington agrees further,
9 not to prosecute Defendant for any additional offenses known to it as of the time of this
10 Agreement that are based upon evidence in its possession at this time, or that arise out of
11 the conduct giving rise to this investigation. In this regard, Defendant recognizes that the
12 United States has agreed not to prosecute all of the criminal charges that the evidence
13 establishes were committed by Defendant solely because of the promises made by
14 Defendant in this Agreement. Defendant acknowledges and agrees, however, that for
15 purposes of preparing the Presentence Report, the United States Attorney's Office will
16 provide the United States Probation Office with evidence of all relevant conduct
17 committed by Defendant.

18 Pursuant to this Plea Agreement, and conditioned on Defendant's fulfillment
19 of all of its conditions, the United States agrees to move the Court, at the time of
20 sentencing, to dismiss without prejudice as to Defendant Counts 1 - 6, and 8 - 49 of the
21 Second Superseding Indictment in No. CR03-343FDB. Defendant agrees that, if the
22 conviction is later dismissed or vacated, the dismissed counts of the Second Superseding
23 Indictment in No. CR03-343FDB may be reinstated.

24 Defendant agrees and acknowledges that any charges to be dismissed before
25 or at the time of sentencing were substantially justified in light of the evidence available to
26 the United States, were not vexatious, frivolous or taken in bad faith, and do not provide
27 Defendant with a basis for any future claims under the "Hyde Amendment," Pub.L. No.
28 105-119 (1997).

1 12. Acceptance of Responsibility. The United States acknowledges that if
2 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG §
3 3E1.1(a) and if the offense level is sixteen (16) or greater, Defendant's total offense level
4 should be decreased by three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because
5 Defendant has assisted the United States by timely notifying the authorities of her
6 intention to plead guilty, thereby permitting the United States to avoid preparing for trial
7 and permitting the Court to allocate its resources efficiently.

8
9 13. Cooperation.

10 a. Defendant shall cooperate completely and truthfully with law
11 enforcement authorities in the investigation and prosecution of other individuals involved
12 in criminal activity. Such cooperation shall include, but not be limited to, complete and
13 truthful statements to law enforcement officers, as well as complete and truthful testimony,
14 if called as a witness before a grand jury, or at any state or federal trial, retrial, or other
15 judicial proceedings. Defendant acknowledges that this obligation to cooperate shall
16 continue after Defendant has entered a guilty plea and sentence has been imposed, no
17 matter what sentence Defendant receives; Defendant's failure to do so may constitute a
18 breach of this Plea Agreement.

19 b. Defendant understands that the United States will tolerate no
20 deception from her. If, in the estimation of the United States Attorney, information or
21 testimony provided from the date of the Plea Agreement, proves to be untruthful or
22 incomplete in any way, regardless of whether the untruthfulness helps or hurts the United
23 States' case, the United States Attorney for the Western District of Washington may
24 consider that Defendant has breached this Plea Agreement.

25 c. The United States Attorney's Office for the Western District of
26 Washington, in turn, agrees not to prosecute Defendant for any other offenses, other than
27 crimes of violence, that Defendant may have committed in the Western District of
28 Washington prior to the date of this Agreement about which: (1) the United States

1 presently possesses information; or (2) Defendant provides information pursuant to this
2 Agreement to cooperate with the authorities.

3 d. The parties agree that information provided by Defendant in
4 connection with this Plea Agreement shall not be used to determine Defendant's sentence,
5 except to the extent permitted by USSG § 1B1.8.

6 e. In exchange for Defendant's cooperation, as described above, and
7 conditioned upon Defendant's fulfillment of all conditions of this Plea Agreement, the
8 United States Attorney agrees to consider filing a motion, pursuant to USSG § 5K1.1
9 permitting the Court to sentence Defendant to less than the otherwise applicable
10 Sentencing Guideline range.

11 f. Defendant agrees that her sentencing date may be delayed based on
12 the United States' need for her continued cooperation, and agrees not to object to any
13 continuances of her sentencing date sought by the United States.

14
15 14. Interdependence of Plea Agreements. The parties agree that this Plea
16 Agreement shall be conditioned upon the Court's acceptance of the Plea Agreement in the
17 matter of United States v. Michael Airgood, CR03-343FDB. Defendant understands,
18 therefore, that this Agreement is part of a package plea agreement with the United States,
19 to wit: if either Defendant or Michael Airgood does not enter into, and plead guilty
20 pursuant to her/his respective Plea Agreement, or if either Defendant or Michael Airgood
21 subsequently seeks to withdraw her/his guilty plea, then the United States will withdraw
22 both Plea Agreements and will proceed to prosecute both parties for all crimes for which
23 the United States has sufficient evidence.

24
25 15. Voluntariness of Plea. Defendant acknowledges that she has entered into
26 this Plea Agreement freely and voluntarily, and that no threats or promises, other than the
27 promises contained in this Plea Agreement, were made to induce Defendant to enter this
28 plea of guilty.

1 16. Statute of Limitations. In the event that this Agreement is not accepted by
2 the Court for any reason, or Defendant has breached any of the terms of this Plea
3 Agreement, the statute of limitations shall be deemed to have been tolled from the date of
4 the Plea Agreement to: (1) 30 days following the date of non-acceptance of the Plea
5 Agreement by the Court; or (2) 30 days following the date on which a breach of the Plea
6 Agreement by Defendant is discovered by the United States Attorney's Office.

7
8 17. Post-Plea Conduct. Defendant understands that the terms of this Plea
9 Agreement apply only to conduct that occurred prior to the execution of this Agreement.
10 If, after the date of this Agreement, Defendant should engage in conduct that would
11 warrant an increase in Defendant's adjusted offense level or justify an upward departure
12 under the Sentencing Guidelines (examples of which include, but are not limited to:
13 obstruction of justice, failure to appear for a court proceeding, criminal conduct while
14 pending sentencing, and false statements to law enforcement agents, the probation officer
15 or Court), the United States is free under this Agreement to seek a sentencing
16 enhancement or upward departure based on that conduct.

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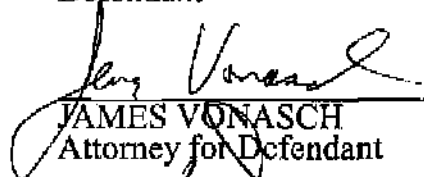
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1 18. Completeness of Agreement. The United States and Defendant
2 acknowledge that these terms constitute the entire Plea Agreement between the parties.
3 This Agreement only binds the United States Attorney's Office for the Western District of
4 Washington. It does not bind any other United States Attorney's Office or any other office
5 or agency of the United States, or any state or local prosecutor.
6

7
8 DATED: This 21 day of January, 2004.
9

10
11 

12 KRISTEN KLEIN
13 Defendant

14 

15 JAMES VONASCH
16 Attorney for Defendant

17 
KATHRYN A. WARMA
Assistant United States Attorney

18 
19 FLOYD G. SHORT
20 Assistant United States Attorney
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